

**Minutes
State Board of Education
Monday, September 29, 2003**

The Arizona State Board of Education held its monthly meeting at the Arizona Department of Education, 1535 W. Jefferson Ave., Phoenix, 85007. This meeting began at approximately 9:05AM.

Members Present

Ms. Nadine Mathis Basha, President
Dr. Matthew Diethelm, Vice President
Superintendent Horne
Ms. Armida G. Bittner
Dr. Michael Crow
Ms. Conkie Hoover
Ms. JoAnne Hilde
Ms. Catherine Kasper
Dr. John Pedicone

Board Business:

Pledge of Allegiance, Moment of Silence, Roll Call

Minutes Approval:

Dr. Diethelm made the motion to approve the August 25, 2003 minutes and August 25, 2003 executive session minutes. Ms. Bittner seconded. Motion carried.

Board Reports:

President's Report

Ms. Basha reported on the \$1.6 M grant that ASU and the School Readiness Board has received to train teachers and provide professional development for early childhood teachers. The School Readiness Board has also adopted the state guidelines adopted by this Board for teaching early childhood education and Ms. Basha commends Karen Woodhouse (Director of Early Childhood for ADE) for all of her work in developing and implementing these new standards throughout the education community.

Superintendent's Report-

No report

Board Member Reports-

Ms. Kasper reported to the Board that Federal funds have yet to be distributed to schools in her district (Creighton School District) and that school has already been in session for at least a month. Ms. Kasper stated that she believed funds were given to the states for distribution two weeks ago. Mr. Horne asked Associate Superintendent of School Finance, Vicki Salazar, to comment. Ms. Salazar stated that she will look into the matter, but that it takes the State and ADE around 3-4 weeks, upon receiving the funds, to allocate and distribute to districts. She will look into this delay and give Ms. Kasper an update immediately.

Dr. Diethelm highlighted for the Board the points of a recent Arizona Business and Education Coalition letter stating that the Board and the Department must keep standards high for all grades and maintain consistency throughout all grade/subject combinations for school accountability.

Ms. Bittner stated to the Board that she attended the Arizona Small and/or Rural Schools Association conference, where the Superintendent spoke to the standards that the Board has approved and the process that ADE is taking to implement them. The needs and desires of the schools represented were expressed emphatically. A concern is the lack of funding, standards and labeling. Ms. Bittner also commended the Superintendent for his eloquence in speaking with the Superintendent of Snowflake. Mr. Horne stated that the Superintendent of Snowflake was a difficult man to please.

Executive Director's Report-

Ms. Farley updated the Board on rule status. Several rules packages are currently being developed in order to achieve complete Board compliance with State statute. Ms. Farley stated that staff is currently working with the School Facilities Board to develop

- (1) Select Bidder Rules, and
- (2) Alternative Project Delivery Methods Rules.

Additionally, Ms. Farley reported that the Legislature is beginning to hold Interim Committee and Joint Select Committee meetings. Ms. Farley reported that on Wednesday, October 1, 2003, a Legislative committee will meet to discuss the Flores Consent Decree and the M&O implementation issues with Proposition 203. Ms. Farley also reported that the Department of Education would be holding a Structured English Immersion endorsement meeting tomorrow to discuss the certification endorsement for teachers in SEI that would be coming back before the Board.

Consent Items:

President Basha requested that the Board make a motion to approve the consent items, unless any member would like to have a specific item removed. With no member requests to remove consent material, Ms. Hoover made the motion to approve the consent agenda; Dr. Pedicone seconded the motion. Motion carried. (Please see agenda for consent item material details)

Call To The Public:

Ken Waters- Certification complaints regarding his wife's attempts to get a teaching certificate in Arizona and our requirements for her to take additional courses when she already has a master's degree in education.

General Session:

- *Consideration to Accept the Recommendations of the PPAC and Suspend the Certification with Reinstatement Conditions for Newman Clark, #C-99-01*

Mr. Craig Emanuel, Chief Investigator for the State Board of Education, gave background on this case stating that Newman Clark holds a standard elementary certificate and a school psychologist certificate both valid from June 1997- December 1, 2003. While employed at the Window Rock Unified School District, Mr. Clark had used his school district equipment improperly to download and view pornography. Dr. Pedicone asked Mr. Emanuel why the PPAC is being so lenient in giving Mr. Clark a chance to be reinstated as a teacher. Ms. Hoover

also vocalized that she felt uncomfortable with this PPAC recommendation. Mr. Emanuel stated that this recommendation by the PPAC came from conducting hearings and investigations into specifics of Mr. Clark's case and that it is the burden of proof for Mr. Clark to show to the Board that he is able to have his teaching certificate reinstated. Ms. Basha made the motion that the Board approves the findings of fact and the conclusions of law. Dr. Diethelm seconded this motion. Ms. Hoover made the subsequent motion to reject the PPAC recommendation and to recommend revocation of the teaching certificates. Dr. Pedicone seconded the motion. Mr. Horne and Dr. Crow voted against the motion. *Motion Carried.*

Ms. Hilde questioned Ms. Farley, after the motion was complete, if this is an appropriate action since Mr. Clark is not at this Board meeting. Ms. Farley stated that all persons involved with a Board revocation/suspension are notified prior to the meeting.

- *Consideration to Approve Allowing the Following School District to Increase the Unrestricted Capital for Ganado Unified School District FY 2003-2004 Budget*

Mr. Friesen introduced the item to the Board providing background to the request and stating that Ganado USD has yet to submit an exact amount the school would shift to unrestricted but that Ganado could not move M&O funds into this account, and that once shifted the school could not move back into unrestricted for 2003-2004 school year. In an effort to provide the Board with the entire picture, Ms. Farley stated that Ganado is currently being investigated by the Auditor General's Office for misuse of funds for failure to follow appropriate procurement bidding procedures, but that the Board only has review authority for USFR compliance. Ms. Patricia Horseman, Ganado USD attorney, provided the Board with Ganado's background for their 2000 problem with procurement and stated that Ganado is on track and recently received the ASBO award for financial excellence. Further, Ms. Horseman stated that there have been substantial changes to the administration of Ganado since this occurrence. Ms. Basha requested a motion. Dr. Diethelm moved to grant approval for Ganado Unified School District to increase the unrestricted capital section of the budget for fiscal year 2003-2004. Ms. Hilde seconded. *Motion Carried..*

- *Consideration of Review the Status of Littlefield Unified School District's Compliance with USFR Settlement Agreement*

Ms. Dena Epstein, from the Arizona Attorney General's office, addressed the Board stating that Littlefield USD is back before the Board because of a breach in the settlement agreement from January 25, 2003. In January, the Board entered into its first settlement proposal withheld 5% of State Aid rather than the usual 10% with the promise that Littlefield would follow the settlement. To date, the Auditor General has yet to receive the agreed upon June 30th report, which was specifically explained to Littlefield in the agreement and to their Superintendent, Dr. Trujillo. Ms. Epstein states that Littlefield has \$1.6M for State equalization aid, \$2.2M budgeted for 2003-04 fiscal year, and has just been approved by the SFB to begin construction on a new high school for \$4.2M.

Ms. Jennifer McLennan, Littlefield USD attorney, represented Littlefield with the following statements: there has been a different interpretation of the settlement by Littlefield as compared to the Attorney General's office and that the school is not purposely defying the settlement. Ms. McLennan pointed to paragraph 18 and 19 as the points of confusion between the two parties. Ms. McLennan stated that Littlefield is more than happy to have the Auditor General's Office come back to the school but that if the Board decides to increase the withholding to 10%, that Littlefield have the ability to present to the Board evidence at a hearing.

Dr. Trujillo, Littlefield Superintendent, stated that he believes Littlefield has lived up to the statements of the agreement. He stated that Littlefield has now moved to a K-12 versus a K-8, 9-12 school with 429 students. Nine-seventy percent (97%) of the students receive free and reduced lunch, the population is 60% are minority, and they received an underperforming label in 2002. He added that to address the underperforming label they continued their Title I program through the summer and if the Board would increase withholding to 10% Littlefield would experience further hardship and have to discontinue the summer program. Ms. Hoover moved that the Board find the Littlefield School District out of compliance at this time, increase the penalty to 10% and that the other terms and conditions of the settlement agreement remain in full force and effect. Ms. Hilde seconded the motion. Mr. Horne voted against the motion. *Motion Carried* Dr. Crow asked at what point the State decides that this school cannot advance its own agenda and places it into receivership? Ms. Mangepane, Assistant Attorney General, Solicitor General's Section representing the Board in this proceeding, reviewed the estimated timeline for the Auditor General revisiting this school and then it will return to the Board if compliance is still not achieved. Ms. Mangepane outlined the options available to the Board in this matter. Mr. Horne believes that the district seems to be on the right track and we should wait for a review from the Auditor General's Office. Dr. Pedicone stated that as a superintendent, with so much at stake, if he knew a statement of compliance was required by a given deadline he would ensure that such a deadline was met. Ms. Hilde agreed that the deadline in the consent agreement was a flashing red light and it is not her nature to be punitive for the sake of being punitive, but she takes very seriously the need to be financially secure in the handling of money and when it can impact students and services, it is doubly serious. President Basha asked when the Auditor General could provide the Board with a report on compliance? Ms. Haggerty, with the Auditor General's Office, stated that pending sufficient evidence to her office, the Auditor General could report back to the Board in January with preliminary information. Mr. Horne reiterated that the Auditor General should schedule a visit as soon as possible. Mr. Horne also stated that this illustrates the problem with having small school districts and makes the case for district consolidation. Ms. Mangepane assisted the Board in developing the findings of fact and conclusions of law. Ms. Mangepane provided the Board with the following proposal: The State Board of Education and Littlefield School District entered into a Settlement Agreement dated January 27, 2003; One of the provisions of that Settlement Agreement, specifically paragraph 18, required that as soon as possible and no later than August 29, 2003, Littlefield shall report to the ADE School Finance Unit, the Auditor General's Office and the SBE whether it has achieved USFR compliance such that it is appropriate for the Auditor General's Office to conduct another review; Littlefield Unified School District did not submit a statement of compliance as required by paragraph 18; appearing before the SBE on September 29, 2003, Littlefield did present a verbal statement that they feel they are now in compliance with the USFRs. The Conclusions of Law would be that the Board find the school in noncompliance with paragraph 18 of the Settlement and that the remaining provisions of the Settlement Agreement remain in full force and effect and the Board has already voted the order. Dr. Pedicone moved to approve the motion regarding findings of fact and conclusions of law as stated by Victoria Mangepane, and Joanne Hilde seconded. *Motion carried.*

- *Presentation and Discussion of Certification Policies in Preparation for the Certification Task Force Meeting*

Kathy Wiebke, Deputy Associate Superintendent of Highly Qualified Professionals, stated that reciprocity was to be discussed before the Board this month. However, the Certification Task

Force needs to reconvene for further discussions and an entire proposal will be presented to the Board for consideration at the October 27, 2003 meeting. Ms. Wiebke also asked the Board if they have any questions concerning the “homework” she distributed at the last meeting. Dr. Diethlem stated that reciprocity should be free and open to those states whose consolidated applications have been approved by NCLB standards and that Arizona does not have to be redundant in our requests for certification. Ms. Hilde stated that we should continue to maintain our efforts to improve teacher performance in the classroom and to keep our standards high. Ms. Kasper reported that she was pleased with the rubric approved last month as many of her teacher colleagues can complete the first page only and be highly qualified according to NCLB. Dr. Jeanette Flom, Arizona Association of School Psychologists addressed the Board to inform them that the school psychologists had provided recommendations for certification changes for school psychologists that have not progressed since 2001 and she would like to know where these are in the process because the standard needs to be raised. Ms. Farley responded that the Board staff has prioritized drafting rules to comply with the statutory requirements first and then to move on to discretionary rules. Ms. Farley indicated that she has discussed this issue with Dr. Flom as well as others from the Association of School Psychologists and that it remains on the list of prospective rules to work on. *Discussion only, no action taken..*

- *Consideration to Approve English Language Learner Parent/Guardian Waiver Request Form*

Irene Moreno, Deputy Associate Superintendent of English Acquisition, presented to the Board the finalized version of the Parent/Guardian Waiver Request Form, which the ELL Task Force has approved for submittal to the Board. Dr. Crow questioned if this waiver would be translated into various languages for appropriate parental interpretation. Ms. Moreno said yes and that the ADE will be keeping a file so that school districts can submit to the Department translations in numerous languages. She added that ADE will provide the Spanish translations. Ms. Bittner questioned what was different between this revised version and the old version. Ms. Moreno pointed to the document where the old version, the new version and a statement of changes are listed. President Crow made the motion to approve the English Language Learner Parent/Guardian Waiver Request Form as required by State statute. Dr. Diethelm seconded. *Motion Carried.*

- *Consideration to Approve Opening of the Rulemaking Docket for R7-2-316 regarding English Language Learner Teacher Certification Endorsements, including Structured English Immersion Endorsement*

Ms. Farley reported to the Board that a Task Force would convene tomorrow to discuss the ELL Structured Immersion Endorsement. Dr. Diethlem questioned if the Structured English Immersion Endorsement would be an addition to the two other endorsements for ELL or would this remove those other options? Ms. Farley stated that during consensus building discussions, the education community has expressed a desire for the two other options to remain. Ms. Hilde moved to approve the Notice of Rulemaking Docket Opening for State Board of Education Rule R7-2-613 regarding English Language Learner Teacher Certification Endorsements, including a Structured English Immersion Endorsement. Dr. Pedicone seconded. *Motion Carried.*

Board Break 11:15; Reconvened Meeting 11:25

- *Presentation and Discussion of the Priority Title One Schools' AYP Designations*

Dr. Ildiko Lazcko-Kerr, Deputy Associate Superintendent of Research & Policy, presented to the Board that out of 226 Title I schools evaluated, 112-Made AYP; 110-Did Not Make AYP; 4-Pending review of data verification. *Discussion only, no action.*

- *Presentation, Discussion and Consideration to Approve Proposals Regarding AZLEARNS, (1) Alternative School Designations and (2) Appeal Process*

(1) Dr. Lazcko-Kerr stated that the Board has already approved the definition and criteria for alternative school designations, however there are some schools that do not currently fit into the definition or with the criteria for designation and the Board will need to reevaluate alternative school designations. The new model should include a K-8 version. The Board can either postpone designations until 10/15/2004 or revisit the definition and criteria for approval. Dr. Lazcko-Kerr stated that a group had met, including representatives from the charter community whose schools have primarily caused the need for revisiting the definition, and have recommended postponing the designations. However it is up to the Board for a final decision. Dr. Diethelm made the motion to approve postponing the issuance of an Achievement Profile for schools that receive alternative school status from the ADE based on the alternative schools definition approved by the Board in September 2002, and award alternative school designations October 15, 2004. Dr. Pedicone seconded. *Motion Carried. (please refer to packet material for specifics)*

(2) Dr. Lazcko-Kerr stated that the appeals data verification timeline is one-and-one-half weeks of review by schools. If schools fail to review data within the specified timeframe a school loses the ability to challenge their profile. If a school verifies data, then an appeal can be submitted on a data or a substantive challenge. Dr. Diethelm expressed concern with the tight timeframe and the Board's ability to have materials in a timely manner. Dr. Diethelm moved to approve the AZ LEARNS Achievement Profile appeals process as detailed in the presented material by ADE provided that the appeals process is prompted with adequate time for Board to review. Ms. Hilde seconded the motion. *Motion Carried. (please refer to packet material for specifics)*

- *Discussion and Action on C.I. Wilson Academy Charter School Compliance and Breach of Contract (Please reference tapes for additional discussion)*

The Board has the following options:

1. Take no enforcement action at this time
2. Request further reporting or information from the charter holder and/or Charter School Board staff
3. Withhold 10% of state aid from C.I. Wilson Academy charter school until compliance with the USFRCS is demonstrated
4. Issue a notice of intent to revoke the charter of C. I. Wilson Academy based on failure to comply with the provisions of its charter that require the school to comply with the same financial requirements as a school district, including the USFRCS.

A representative from the C.I. Wilson governing board made a presentation to the Board indicating that the school has problems and the Board is concerned, but shutting down the school is not in the best interest of the children, nor rectifying the problem. He iterated that the governing board would like an opportunity to address the problems. Dr. Diethelm stated that we have been through this discussion several times and he would like to see the school be successful, however, the school needs to comply with all applicable laws. An overview of the intent to revoke process was reviewed and Dr. Diethelm indicated that that process is the appropriate process to determine the facts of the issue to allow the Board to make a final finding.

Dr. Pedicone agreed with Dr. Diethelm that this has been going on for a long time and it is hard to understand why the school does not have all the information necessary to make their case when such an important decision is on the table. Dr. Crow stated that he would probably be inclined to agree with the statements made if the school could control outside issues, such as external auditors. This institution is on the front line and they appear to be representing that they have made a transition since they were first before the Board. This is a front line, in the field school and they seem to be doing better than other schools in the same community if the information provided is accurate, and assume it is. Dr. Crow stated that taking this step to revoke the charter does not seem to be the answer and he would be willing to be part of a subcommittee to visit the school to see why it is having the difficulties that are occurring and to make specific recommendations and provide assistance in coming into compliance. Motion was made by Mr. Horne to appoint a subcommittee to report back next month. Ms. Bittner seconded the motion. The subcommittee shall consist of President Crow, Board Member Diethelm and Board Member Hilde. *Motion Carried.*

- *Consideration to Approve Amendment to the Notice of Final Rulemaking for R7-2-401, R7-2-404 and R7-2-408 regarding Exceptional Student Services*

Ms. Farley reviewed the status of this rules package, indicating that the AG's office had returned this Notice of Final Rulemaking for a second time and has suggested a wording change. Dr. Diethelm expressed continued frustration with the rulemaking process and the need to develop a better system. Ms. Hilde made the motion that the Board approve the amendment as presented to the Notice of Final Rulemaking for R7-2-401, R7-2-402, R7-2-403, R7-2-404 and R7-2-408 regarding Exceptional Student Services. Ms. Kasper seconded the motion. *Motion Carried.*

Adjourn

Motion made by Ms. Basha, seconded by Ms. Hilde. *Motion carried.*